

APPEAL NO. 031386
FILED JULY 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 5, 2003. The hearing officer determined that: (1) the appellant (claimant) sustained a compensable lumbar sprain/strain injury on _____, consistent with the parties' stipulation; (2) the compensable injury does not extend to and include a herniated disc at L5-S1; and (3) the claimant did not have disability from January 23, 2002, through February 3, 2002, and February 18, 2002, through May 3, 2003. The claimant appeals the extent-of-injury and disability determinations on sufficiency of the evidence grounds, asserting that the hearing officer mischaracterized critical evidence. The respondent (carrier) urges affirmance. The hearing officer's determination that the claimant sustained a compensable lumbar sprain/strain injury was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer considered the evidence and determined what facts had been established. Even assuming that the hearing officer misconstrued the reports of Dr. H and Dr. E, as asserted by the claimant, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Legion Insurance Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Edward Vilano
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge